

2004 Legislative Report

A Summary and Status of Transportation-Related Legislation Passed during the 2004 Regular Session

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I. Agency Request Legislation

SHB 2475: Facilitating enforcement of toll violations.

Background: Under current law, it is a traffic infraction to evade payment of tolls on a publicly operated toll facility. A law enforcement officer is only authorized to issue a citation for a traffic infraction if it is committed in the officer's presence, in the presence of a referring law enforcement officer, or if the officer is at the scene of an accident and has probable cause to believe that an infraction has been committed.

Summary of Bill:

Toll evasion violations generally

Failure to pay a toll is made a non-moving traffic infraction. If a person violates the requirements to pay a toll, a law enforcement officer may issue a notice of a traffic infraction in person or the notice may be mailed to the registered owner. Infractions for toll violations are not part of the registered owner's driving record. If the owner does not respond to the notice of infraction, the Department of Licensing shall suspend the renewal of the vehicle registration upon request by the Department of Transportation. If the registered owner is a rental car business, the infraction will be dismissed against the business if the business provides the name and known mailing address of the person renting or driving the vehicle.

Proof that a particular vehicle was involved in a toll evasion violation, together with proof that the person named in the notice of the violation was the registered owner of the vehicle at the time of the infraction, creates a rebuttable presumption that the registered owner committed the violation.

Time limits for notices of infractions

Notice of an infraction for toll violations must be mailed to the registered owner within 60 days of the toll violation, unless issued in person. A registered owner will be responsible for the violation unless he or she provides either 1) a sworn statement that the vehicle was stolen or in the care, custody, or control of some other person at the time of the violation, or 2) testifies in open court that the person was not the operator of the vehicle at the time of the violation. The statement or testimony must be furnished to the agency issuing the notice of infraction within 15 days if issued in person, or within 18 days if mailed.

Photo enforcement systems

When a photo enforcement system is used at toll facilities, the content and use of the images recorded by the system are restricted. The content of the recorded images is limited to the vehicle and license plate only. Recorded images are not open to the public and may not be used in court unless the proceeding relates to a toll collection violation. Rules adopted by the department must provide an open standard for interoperability with multiple transponder vendors.

Effective Date: June 10, 2004, if approved by the Governor.

ESHB 2476: Facilitating vehicle toll collection.

Background: The Department of Transportation (DOT) plans to operate the Tacoma Narrows Bridge utilizing electronic toll collection technology as well as manual toll collection. Using that technology, frequent users of the bridge can keep a transponder in their car that records their use of the toll facility. Electronic toll collection by transponder can either be prepaid or users can receive a monthly toll bill in the mail.

The Transportation Commission will be addressing payment specifics as part of setting tolls.

Use of an electronic toll collection system allows traffic to move more freely than a conventional toll booth and can also be used to facilitate enforcement against toll violators. Current law does not contemplate the ability to pay tolls without stopping at a toll booth located at the facility.

The Department of Licensing (DOL) is currently authorized to provide lists of registered and legal owners of vehicles to specified entities for specified purposes. For example, car manufacturers are authorized to obtain lists to assist with factory recalls. A toll facility operator is not authorized to access the DOL vehicle records to identify toll evaders.

Summary of Bill: Electronic toll collection is allowed on the Tacoma Narrows Bridge. Recorded images may not be used for any purpose other than toll enforcement. "Electronic toll collection" and "photo monitoring system" are defined under the Public-Private Transportation Initiatives law.

The DOT is directed to create rules for operating and managing toll collection and allow for transponder compatibility between statewide toll facilities (including ferries, public transit agencies). The DOT rules must also allow for an open standard for interoperability with multiple transponder vendors.

Toll facility operators are added to the list of entities to whom the DOL may furnish lists of registered and legal owners in order to identify toll violators.

Effective Date: June 10, 2004, if approved by the Governor.

II. Accountability, Governance and Reform Legislation

There was no legislation enacted this session relating directly to transportation accountability, governance or reform beyond the action in the budget.

III. Budget, Fiscal and Revenue Legislation

ESHB 2474: Making supplemental transportation appropriations.

Background: The transportation budget provides biennial appropriations to the major transportation agencies: Department of Transportation, Washington Traffic Safety Commission, County Road Administration Board, Transportation Improvement Board, Washington State Patrol and Department of Licensing. The budget also provides appropriations out of transportation funds to many smaller agencies with transportation functions.

The 2003 Legislative session implemented a number of changes to improve the accountability, efficiency, and oversight of our state's transportation system and the associated agencies. The enacted 03-05 biennium Transportation Budget built upon that foundation with targeted funding of specific activities and through linking new revenue with specific projects to be delivered.

Since the completion of the 2003 Legislative session, the courts rendered a decision on Initiative 776 that eliminated some local transportation option taxes and reduced the gross weight fees on light trucks under 10,000 pounds to \$30. The reduction of the gross weight fees affected the Motor Vehicle Account, the Washington State Patrol Highway Account, the Puget Sound Ferries Operation Account, and the Transportation 2003 Account. Combined, these accounts were reduced by \$42.8 million in the current biennium and approximately \$200 million over 10 years.

Three strategies -- federal funds swap, fund transfers, and program reductions -- are used to eliminate the deficit in the Motor Vehicle Account and to provide additional funds for mandated or high priority activities.

Federal Funds Swap

- \$18.6 million – The Washington State Ferries received an additional \$18.6 million in federal funds. Using these additional funds in lieu of the originally budgeted state and bond appropriation allows for an equivalent amount of state funds to be freed up; covering a portion of the deficit in the Motor Vehicle Account.

Fund Transfers

Transportation account balances were reviewed for any funds that could be transferred to the Motor Vehicle Account. The following balances are transferred to the Motor Vehicle Account:

- \$5.0 million – from the Transportation Equipment Fund;
- \$3.0 million – from the Advance Right of Way Account.

Program Reductions

The following are examples of program reductions included in the supplemental budget:

- \$7.6 million – Self-insurance premiums;
- \$1.9 million – Unfilled positions;

Summary of Bill: Enacts supplemental appropriation authority for transportation agencies for the remainder of the current biennium. An executive summary of the supplemental transportation budget is attached.

Effective Date: The bill contains an emergency clause and takes effect immediately upon the Governor's signature.

IV. Transportation Planning and Regional Legislation

There was no legislation enacted this session pertaining to transportation planning or regional issues beyond the action in the budget.

V. Highways and Operational Related Legislation

EHB 1433: Designating highways of statewide significance.

Background: In 1998 the Legislature directed the Transportation Commission (Commission) to designate highways of statewide significance. At a minimum, this designation was to include interstate highways and other statewide principal arterials needed to connect major communities across the state and support the state's economy.

The Commission refined the criteria and designated certain highways as highways of statewide significance. For a highway to be designated as a highway of statewide significance the following criteria were set: the highway must be a state highway, a principal arterial that is part of the national highway system, and a rural route serving statewide travel, or an urban route with certain connectivity or freight volumes.

In 2002 the regional transportation investment district legislation empowered the Legislature to also designate state highways of statewide significance and made that designation of a portion of State Route 509. The legislation also required that 90 percent of district revenues be expended along highways of statewide significance corridors.

Designation of a highway route as a highway of statewide significance means the improvements along the route are higher priority. It also means that improvements are essential public facilities under the Growth Management Act (GMA) plans, GMA concurrency requirements do not apply, and the state is responsible for establishing a level of service standards.

Summary of Bill: The Legislature designates as highways of statewide significance those designated by Transportation Commission Resolution Number 660 as adopted on January 21, 2004.

Effective Date: June 10, 2004, if approved by the Governor.

HB 1589: Allowing annual permits for oversize towing operations.

Background: Under current law, vehicles which are overweight or oversized must obtain a special permit from the Washington State Department of Transportation (WSDOT) in order to travel on the state highway system. The different permits issued may be valid anywhere from one day to one year. There are currently no long-term permit categories for tow trucks.

Under the current process, if a tow truck is hired to tow an oversized or overweight vehicle, they must obtain a permit from the WSDOT which is valid for that single tow operation. The WSDOT charges according to the weight of the tow vehicle and the number of miles the vehicle will be towed. The fees for this type of permit range from \$14 to several hundred dollars.

Should there be an emergency where an oversized/overweight vehicle needs to be towed outside of regular business hours, the tow truck company can currently obtain the permit from the Washington State Patrol (WSP). However, the WSP will be discontinuing this service as of July 1, 2003 which means, under the current scenario, tow truck companies will have to obtain the necessary permits in advance of a tow, or the tow will have to wait until the WSDOT offices are open for business.

Summary of Bill: Two new overweight/oversize permit categories are created for tow trucks that tow oversize/overweight vehicles. The categories are for class C and class B tow trucks that perform emergency and non-emergency tows of oversize or overweight vehicles. The permits are valid for one year. The permit fee for class C tow trucks is \$150 per year and the fee for class B tow trucks is \$75 per year.

Effective Date: June 10, 2004, if approved by the Governor.

SB 5376: Describing the route of SR 99.

Background: Currently, State Route 99 begins in Fife at a junction with State Route 5, thence northerly by way of Federal Way, Midway, Seattle, and Edmonds to a junction with State Route 5 in Everett. A proviso specifies that the portion of State Route 99 between Fife and Federal Way will be deleted from the state system when a new corridor for State Route 509 is completed from State Route 705 in Tacoma, via the Port of Tacoma, to Federal Way.

The Transportation Improvement Board is responsible for annually reviewing requests for transfers of road jurisdiction among the Department of Transportation, cities, and counties. Criteria for route responsibility is set forth in RCW 47.17.001. Decisions for transfer by the board are then referred to the Legislature in order for the transfer to occur. The city of Tukwila has requested that the portion of State Route 99 between State Route 518 in the vicinity of Tukwila and State Route 599 in the vicinity of Tukwila be transferred to local jurisdiction.

Summary of Bill: 2.4 miles of State Route 99 between State Route 518 in the vicinity of Tukwila and State Route 599 in the vicinity of Tukwila is removed from the state highway system and is turned back to local authorities.

Effective Date: June 10, 2004, if approved by the Governor.

SB 6091: Ensuring deployment of personal wireless service facilities.

Background: All public highways that are outside of incorporated cities and towns, and that are not county roads, are state highways. A state highway that is generally designed for through traffic is a "limited access facility." A state highway where adjacent property owners have a limited right to enter and exit the highway, sometimes from private driveways or roads, is a "partially controlled limited access highway."

During the 2003 Regular Session, the Legislature passed SB 5959, which required the Department of Transportation to allow wireless telecommunications companies to access their facilities from partially controlled limited access highways. The bill also contained an intent section declaring that, among other things, approaches to partially controlled limited access highways "shall be permitted for the deployment of personal wireless facilities."

The Legislature also passed ESSB 5977, which required the Department of Transportation to establish a new lease process for the use of highway rights of way for personal wireless service facilities. That bill also contained intent sections declaring, among other things, that the use of the rights of way of state highways and limited access facilities "must be permitted for the deployment of personal wireless service facilities."

The Governor vetoed the intent sections in both bills, asserting that the sections could suggest the deployment of personal wireless facilities "should take precedence" over highway safety.

Summary of Bill: The Legislature declares that personal wireless service is a critical part of the state's infrastructure, and that the rapid deployment of personal wireless service facilities is critical to ensure public safety, network access, quality of service, and rural economic development. The Legislature further declares that it is state policy to assure that the use of the rights of way of state highways and limited access facilities accommodate the deployment of personal wireless service facilities consistent with highway safety and the preservation of the public investment in highway facilities.

Effective Date: June 10, 2004, if approved by the Governor.

VI. HOT Lanes and HOV Related Legislation

There was no legislation enacted this session pertaining to HOT lanes or HOV lanes beyond the action in the budget.

VII. Legislation Affecting Washington State Ferries

SSB 6641: Reducing the risk of oil spills and spill damage.

Background: The Legislature enacted oil spill prevention and response measures in 1991 to promote the safety of marine transportation and protect state waters from oil spills. The director of the Department of Ecology (DOE) has the primary authority to oversee prevention, abatement, response, containment, and cleanup efforts for oil spills in state waters. The oil spill program requires oil spill prevention plans, contingency response plans, and documentation of financial responsibility for vessels and facilities that may discharge oil into navigable waters.

Owners and operators of onshore and offshore facilities must prepare and submit oil spill contingency and prevention plans. The plans are valid for five years and may be combined into a single document. Facilities may opt to submit contingency plans for tank vessels unloading at the facility.

Persons or facilities conducting ship refueling and bunkering, or lightering of petroleum products, are required to have containment and recovery equipment readily available according to standards adopted by DOE. In addition, any person or facility transferring oil between an onshore or offshore facility and a tank vessel are also required to have containment and recovery equipment readily available. DOE has rule-making authority to adopt standards for the circumstances under which containment equipment should be deployed.

Summary of Bill: The primary objective of the state oil spill program is to adopt a zero spills strategy and prevent the release of oil or hazardous substances from entering marine waters. DOE's statewide plan must include a process for notifying tribes of any oil spill. Facility contingency plans must include measures for the protection of shellfish beds.

DOE must, by June 30, 2006, adopt rules for directing when a boom should be deployed. The rules apply to any person or facility conducting ship refueling and bunkering, or the lightering of petroleum products. The DOE rules must be suitable to the environmental and operational conditions of the facilities and the US Coast Guard must be consulted when the rules are developed. DOE may require additional alternative oil prevention methods such as: automatic shutoff devices and alarms, extra personnel or additional containment equipment. DOE is directed to work with stakeholders to develop a report describing fueling practices and regulations for covered vessels and ships, and report recommendations and findings to the Legislature by December 15, 2004. The report must describe the current federal and state spill prevention and response requirements and recommendations for any new authorities necessary to establish a protective regulatory system for fueling ships.

Any state agency conducting ship refueling or bunkering of more than 1 million gallons of oil during a calendar year on the waters of the state must develop facility oil spill prevention and contingency plans. A null and void clause is added for the sections, which deal with the requirements for a state agency that refuels more than 1 million gallons of oil. This provision must be referenced in the omnibus transportation appropriations act to take effect.

Effective Date: June 10, 2004, if approved by the Governor.

VIII. Public Transportation, Rail and Freight Legislation

There was no legislation enacted this session pertaining to public transportation, rail or freight beyond the action in the budget.

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